

They Just Can't Give Enough: Retired Attorneys Come Back For More

Volunteer Lawyers Project provides an alternative to retirement

by Jason Howard

Judge Edward M. Ginsburg could have traded his gavel for a golf club. After devoting his life to public service, he certainly deserved to spend his golden years clothed in Nantucket red chinos and a Polo shirt on the fairway to heaven. Instead, he chose a suit, tie and desk at the Volunteer Lawyers Project of the Boston Bar Association (VLP).

Following his retirement, Ginsburg, 73, a former associate justice of the Massachusetts Probate and Family Court, created Senior Partners for Justice (SPFJ) in October 2002. This project, funded by the VLP, seeks to recruit retired attorneys desiring an alternative retirement—representing people who would otherwise end up representing themselves as *pro se* litigants.

He is not alone. Increasingly, retired attorneys across the country are choosing alternative retirements as a way to continue to give back to their communities. While their options are seemingly endless, many decide to lend their years of experience and expertise to legal aid and pro bono work.

“When you become 70 in Massachusetts, you have to retire as a judge,” explains Ginsburg. “Not to be presumptuous, but like former President [Jimmy] Carter, I believe you should make yourself useful even after you leave what has been your primary job.”

“I wanted to do something important. I believe strongly that people should have lawyers. If you go into court without a lawyer, it’s like going into the operating room of a hospital and saying you’re going to operate on yourself.”

Ginsburg credits his experience on the bench as his inspiration for SPFJ, saying that over 60 percent of litigants in family court are *pro se*, most of whom are also indigent. This lack of representation was a good fit, he says, with attorneys approaching a mandatory retirement age, but who were too young to simply take to the green.

“I thought I would try to rekindle in them the spirit that sent them to law school years before,” he recalls. This passion led him to reach out to lawyers throughout the Greater Boston area. The response has been overwhelming.

“We were not prepared for the kind of success that the project has become,” says VLP’s Chief Counsel Lynn Girton. “He basically just started working the phones and calling friends and colleagues and other people that he had known as a judge. People don’t say no to him. So, he started building our panel gradually.”

The panel has since grown to include over 240 attorneys. “The beauty of the panel is not only the degree of enthusiasm they bring to our cases, but the degree of sophistication, because these are very experienced practitioners. In some cases, they are leaders of the bar and former judges which, of course, enters wonderfully to the benefit of our clients,” she says.

Stringent state and local bar rules and regulations can sometimes pose a challenge to this high level of enthusiasm among prospective volunteer attorneys. Stephanie Edelstein, associate staff director of the American Bar Association Commission on Law and Aging, discovered this obstacle when she began studying and encouraging



ABOVE: Donald Stocks, a retired attorney, has been volunteering with AARP Legal Counsel for the Elderly for four years.

volunteering among retired attorneys in the early 1990s.

“When I started looking at this a decade ago, those rules were just basically saying, ‘If you’re age 70 and older, or if you’re retired from the practice of law, you don’t have to pay the dues.’ But there was no public service requirement; it was just you got your dues waived when you got to be a certain age. Over the last 10 years or so, more and more state bars are looking at emeritus rules as something a lot more substantive,” she says.

In recent years, 15 states and the District of Columbia have modified their regulations with emeritus rules which, according to Edelstein, “allow retirees who are not active members of the bars of those states to practice law, on condition that they only do pro bono work, usually under the auspices of an approved legal services program.” Now, she says, retired attorneys who volunteer for legal aid organizations can often have their bar dues drastically reduced or waived, and receive reduced or free continuing legal education courses. Some states, recognizing the mobility of retirees, even allow senior volunteer attorneys to practice in their state without a license.

After scaling these barriers and finding a legal services organization, volunteer lawyers are usually offered great flexibility in choosing their caseload. Some limit themselves to cases that fall within the familiarity of their practice area, others decide to branch out and explore new areas of the law. Attorneys at SPFJ typically handle family law cases such as divorce, child support, guardianships, adoptions, and trust and estates. Two paralegals refer the

cases to the attorneys, with much care and consideration given to finding the perfect attorney-case match. The lawyers are then on familiar ground, and they begin doing court filings, appearances in court, oral arguments and settlements.

“Our goal is to make the attorney feel terrific about the work that they do, so they want to pick up the phone and call me or Judge Ginsburg and say, ‘That was great; let me do this again,’” says Girton.

Ginsburg also organizes monthly luncheons for the panel members with a speaker who addresses topics relevant to the project’s work. These serve, he says, as an expression of gratitude to the panel, but also as a way to recruit other lawyers. “What he’s doing is adding to our panel, but he’s also building a sense of collegiality,” notes Girton. “These things grow exponentially, because once you get a couple of people involved, they start talking to their friends. This clearly has a life of its own. There is some talk now about moving this into some other areas of legal practice. He’s now bringing in tax lawyers who are a huge help to our practice.”

For VLP, the initiative has afforded maximum returns with minimal investment. The program furnishes SPFJ with the basics; administrative staff and monthly lunches.

Most of the indirect costs for SPFJ are donated. A local law firm provides office space for Ginsburg. Other firms donate rooms for conferences. Massachusetts Continuing Legal Education provides space for the monthly



ABOVE: Edward Ginsburg consults with a client as an attorney with the Volunteer Lawyers Project of the Boston Bar Association.

luncheons and, most significantly, has given the panel of lawyers free access to their educational programs.

Since the project was started, VLP has seen an increase in intake, better screening and more clients served. SPJF has only served to enhance the overall quality of the program, Girton says. "Like all pro bono programs, we in the past have had some minor difficulty with cases being returned to us or some concern about the adequacy of the representation. These cases typically are not returned to us; the quality of representation is extraordinarily high and incredibly efficient. These are people who are exceptionally well regarded by the court. They're regarded extremely highly by opposing attorneys, so things get worked out."

It has also provided VLP staff attorneys and paralegals with an unexpected boon—mentors. Girton notes that the title of the project is slightly misleading, as there are a lot of young lawyers involved. She recalls the reaction of a woman at monthly meeting who had just passed the bar exam, "You could just feel people giving her ideas."

This exchange extends from professional development events to the more traditional sense, Girton believes, with younger attorneys sometimes soliciting advice from panel members on certain cases. SPJF has also partnered with Suffolk Law School to create a student internship program. Law students are dispersed to three family and probate courts to observe the legal process at each. They serve as law clerks for SPJF attorneys as well, assisting in court filings and other administrative support. And while these young lawyers and law students receive the sage wisdom of the senior attorneys, they return the favor by infecting their older colleagues with a contagious youthful passion and energy, something that "keeps them alive," says Girton.

Drake Holliday, senior attorney with the LSC-funded

Legal Aid Society of Middle Tennessee and the Cumberland in Nashville, experienced the same interaction when he was program coordinator of the organization's Senior Attorney Volunteer (SAV) Program. Started in the early 1990s with a grant from the Ford Foundation via AARP's Legal Counsel for the Elderly, the SAV Program paired senior volunteer attorneys with senior clients on a variety of elder law cases. He fondly remembers conversations with a prominent Nashville judge who volunteered with the project.

"I'll never forget sitting around talking with the Judge just about how he practiced law, how you deal with other lawyers. This is a man who had been a practitioner, a judge, a dean of a law school, and the wealth of his experience was incredible. I felt so lucky to be able to pick his brain and learn an enormous amount. At that point, I had been practicing law for 16 years, so I wasn't wet behind the ears!" Holliday laughs.

"They had all practiced for 40 years or more," he says. "The model we pitched to volunteer attorneys was, 'We'll be your law office, you be the lawyer. You can use our support staff. We have malpractice insurance to cover you. You tell us the kinds of cases you want to work on.' We were there to back them up and support them, and I think that's crucial."

He credits this system with making the project a success for everyone involved. In fact, the work had such an impact on one senior attorney who had helped a client get railroad retirement benefits that Holliday still recalls a letter he received from the lawyer nearly word-for-word. "I got as much satisfaction out of successfully resolving this case for this man as anything I've ever done in my law practice," Holliday recalls, pausing thoughtfully. "I should have made a copy and sent it to everybody, because that just really brought it home to me—this was a two-way

street. He got this client his railroad retirement benefits so the client could survive, and he got an enormous amount of satisfaction out of it.”

Unfortunately, funding crunches, program priorities and time constraints conspired to kill the SAV Program just two years after it started, he says. Over ten years later, Holliday characterizes it as one of the highlights of his 29-year tenure. “They were experienced, mature lawyers serving elderly clients in need, and the match was perfect. It made me a better lawyer.”

He also points to the support he received from his grantor as vital. Legal Counsel for the Elderly Director Jan May, along with Edelstein, his cohort at the ABA, worked as a “dynamic duo,” offering him invaluable advice concerning structural and operational issues, he says.

Edelstein and May are long-time collaborators on this issue. In concert with the original Ford Foundation grant that funded model programs such as the one in Nashville, they produced a manual on the subject over a decade ago which has essentially become a how-to guide for prospective volunteer attorneys. “We collected information about programs, we wrote articles about the obstacles and how to overcome some of those. We included in the manual information about the project itself and management materials. One of the big issues was—and is still—how do you recruit these volunteers? What kinds of work they might do, offering flexibility in hours, the kinds of cases they might handle, those kinds of things,” he recalls. They are currently updating the manual to reflect the changes of the past decade.

One such change involves the increase in funding options. In addition to partnerships with LSC grantees, senior volunteer lawyer organizations may also be eligible for funding from Interest on Lawyers Trust Accounts (IOLTA), the U.S. Administration on Aging (which includes the Older Americans Act and Senior Hotline) and a variety of other federal, state, local and private funds.

The ABA also seems to be taking a more active role. In a speech to the House of Delegates at the ABA’s annual meeting in August, President-Elect Karen Mathis labeled one of her priorities the “Second Season of Service.” Mathis stated, “The retirement of this generation of lawyers will place special strains on the legal system. Statistics suggest that as many as 40,000 lawyers a year will begin entering ‘active retirement.’ [This] describes lawyers with plenty of energy and experience to offer,” she continued. “I will ask lawyers departing from practice to enter a Second Season of Service.”

Pledging the resources of the ABA to assist in such a transition, Mathis also proposed the creation of an online matching service to pair senior volunteer attorneys with legal services organizations.

Still, the key to successful recruitment is the personal touch, says Ginsburg. These days, he finds himself making fewer and fewer phone calls to add to his panel.

“It keeps expanding, and now it kind of works on its own. I don’t have to go around chasing people; they call me!” Ginsburg chuckles.

Maybe now he can work in the occasional round of golf. ■

continued from page 37

border with Mexico and started seeing cases of abduction. No one knew how to handle them,” said Brown. “The cases involve victims of violence where the father or opponent has taken the children to Mexico and the ‘left behind’ parent is trying to get their children returned. Abusers use the border as another way to exercise power over vulnerable women.”

One of the program’s clients, Maria (not her real name), had escaped her husband’s violence by fleeing to a shelter for battered women with her two children. After two months, she moved to a new residence, but the husband learned its location. While Maria was at work as a stock clerk in a 99-cents store, the spouse went to her house, cut the phone lines, and told the babysitter he was there to take the children to the doctor. He stole Maria’s car and drove to Mexico. Under pressure, the husband returned one child, but refused to release the other. The mother is even unsure where the child is in Mexico. “It’s so awful,” said Brown.

Worldwide, the largest number of international child abductions occur across the U.S.-Mexican border. But few lawyers, especially for women in need, know how to navigate the Hague Protocol. LSC regulations permit programs to represent eligible clients in Hague Convention proceedings. In Maria’s case, Brown filed a petition and documents in English and Spanish with the U.S. State Department in Washington. After a review, the State Department delivered the documents to a counterpart in Mexico, where the case was assigned to a local judicial investigator. The Mexican authorities, through their own proceedings, can opt to hold a hearing, and order the child returned, a sometimes prolonged process.

According to the National Asian Pacific Legal Consortium, more must be done to enable the justice system to meet the vast needs of the immigrant community. The community “faces devastating consequences by inadvertently becoming more vulnerable and more disenfranchised than ever before,” it says.

The consortium makes specific recommendations, including a much enhanced system of trained interpreters throughout the legal system and enhanced funding for legal services programs to build a comprehensive language access program.

The consortium also calls for big-picture changes. “Congress should lift restrictions preventing LSC recipients from addressing the legal needs of individuals with certain types of immigration status,” it states. Limitations on the use of private funds, it says, are especially burdensome and have a “devastating” impact on immigrant communities. “The time has come to fulfill the legal system’s promise of equal access for all,” it concludes.

Rahima Robele, whose newly-arrived refugee father found the justice he hoped for through legal assistance in Seattle, also had a message. “They do a very good job,” she said. “My father really appreciates that. He said, ‘I’m going to say thank you to them one day if I speak English.’ They helped us a lot,” said Robele. ■

Cynthia L. Cooper is a journalist in New York, who specializes in topics of human rights and justice. With a background as a lawyer, she worked for legal services for two and a half years.